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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,105	02/20/2004	Craig P. Lufbig	6445P001	6924
8791 7590 04/02/2008 BLAKELY SOKOLOFF TAYLOR & ZAFMAN 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
EXAMINER				
RAPILLO, KRISTINE K				
ART UNIT		PAPER NUMBER		
3626				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/784,105

**Applicant(s)**

LUFTIG, CRAIG P.

**Examiner**

KRISTINE K. RAPILLO

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-32 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 8 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-85/86)  
Paper No(s)/Mail Date 8/30/2004: 7/24/2006  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 1 – 32 are pending.

#### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Figure 1 – 121 and 122; Figure 4 – 402 and 410; and, Figure 10 – 1010. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Specification***

2. The disclosure is objected to because of the following informalities: Typographical errors. Paragraph [0034] documents reference characters 110<sub>1</sub> (per Figure 1) as 1110<sub>1</sub>. The same typographical error applies to reference characters 114<sub>1</sub> and 128<sub>1</sub>. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1- 4 and 9 - 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Lencki et al. (U.S. Publication Number 2002/0049617 A1), hereinafter Lencki.

In regard to claim 1, Lencki teaches a system to integrate a defined contribution plan with a health plan comprising:

- a claim processing system (paragraph [0111]);
- a health plan management software module (paragraph [0281]); and
- a defined contribution management software module integrated with the health plan management software module (paragraphs [0093 and [0094]), both the health plan management and defined contribution software modules operable by the claim processing system to:
  - create a defined contribution application for the health plan to allow for the entry of information for the defined contribution plan (paragraphs [0271] through [0273]);
  - link defined contribution plan information to the health plan (paragraph [0184]); and
  - establish allocation rules and amounts for the defined contribution plan (paragraph [0084]).

In regard to claim 2, Lencki teaches the system of claim 1, further comprising a claim processing defined contribution software module integrated with a health plan claim processing software module, both the health plan claim processing and defined contribution claim processing software modules operable by the claim processing system to:

- perform claim processing (paragraph [0111]; and
- determine a claim payment for a member based on the defined contribution plan (paragraph [0011]).

In regard to claim 3, Lencki teaches the system of claim 1, wherein the health plan claim processing and defined contribution claim processing software modules store a record of a claim payment

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for the defined contribution plan for access by a member, provider, employer, broker or employee of the health plan (paragraphs [0134] and [0135]).

In regard to claim 4, Lencki teaches the system of claim 3, further comprising a network interface to couple the claim processing system to a network, wherein a member of the health plan utilizing a computing device accesses a record of a claim payment for the defined contribution plan through the network (paragraph [0196]).

In regard to claim 9, Lencki teaches the system of claim 1, wherein the defined contribution plan is a Flexible Spending Account (FSA) account (paragraph [0193]).

In regard to claim 10, Lencki teaches the system of claim 9, wherein establishing allocation rules and amounts for the FSA comprises defining parameters including at least one of an FSA allocation amount and a claim submission method that are considered during FSA claim processing (paragraphs [0081], [0193], and [0206]).

Method claims 11 – 15 and 20 – 21 repeat the subject matter of system claims 1 – 4 and 9 – 10 as a series of steps rather than a set of apparatus elements. As the underlying elements of claims 1 - 4 and 9 – 10 have been shown to be fully disclosed by the teaching of Lencki in the above rejection of claims 1— 4 and 9 – 10, it is readily apparent that the system disclosed by Lencki performs these steps. As such, these limitations (claims 11 – 15 and 20 – 21) are rejected for the same reasons given above for system claims 1— 4 and 9 – 10, and incorporated herein.

Machine-readable medium claims 22 - 26 and 31 - 32 repeat the subject matter of system claims 1 – 4 and 9 – 10 as the execution of a series of steps rather than a set of apparatus elements. As the underlying elements of claims 1 - 4 and 9 – 10 have been shown to be fully disclosed by the teaching of Lencki in the above rejection of claims 1— 4 and 9 – 10, it is readily apparent that the system disclosed

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by Lencki performs these steps. As such, these limitations (claims 22 - 26 and 31 - 32) are rejected for the same reasons given above for system claims 1— 4 and 9 – 10, and incorporated herein.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5 – 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lencki in view of Kaehler et al. (U. S. Publication Number 2005/0086075 A1), hereinafter Kaehler.

In regard to claim 5, Lencki teaches a system to integrate a defined contribution plan with a health plan as per claim 1.

Lencki fails to teach a system wherein the defined contribution plan is a Health Reimbursement Arrangement (HRA) account.

Kaehler teaches a system wherein the defined contribution plan is a Health Reimbursement Arrangement (HRA) account (paragraphs [0033] and [0052]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system wherein the defined contribution plan is a Health Reimbursement Arrangement (HRA) account as Taught by Kaehler with the motivation of allowing a participant (i.e. employee) of a health plan to choose how their health care funds, by way of an HRA and/or FSA, are distributed (Kaehler: paragraph [0044]).

In regard to claim 6, Lencki teaches a system to integrate a defined contribution plan with a health plan as per claim 1 wherein establishing allocation rules and amounts for the HRA comprises

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defining parameters including at least one of co pays, deductibles, coinsurance, and patient liability portions that are considered for payment by the HRA during claim processing (paragraphs [0081], [0193], and [0206]). Lencki fails to explicitly teach a Health Reimbursement Arrangement (HRA).

Kaehler teaches an HRA (paragraphs [0033] and [0052]).

The motivation to combine the teachings of Lencki and Kaehler are discussed in the rejection of claim 5, and incorporated herein.

In regard to claim 7, Lencki teaches the system of claim 5, wherein establishing allocation rules and amounts for the HRA comprises defining a member's allocation amount and tier (paragraph [0206]). However, Lencki fails to explicitly teach an HRA.

Kaehler teaches an HRA (paragraphs [0033] and [0052]).

The motivation to combine the teachings of Lencki and Kaehler are discussed in the rejection of claim 5, and incorporated herein.

In regard to claim 8, Lencki teaches the system of claim 5, wherein establishing allocation rules and amounts for the HRA comprises determining whether HRA allocated amounts are to be carried over (paragraphs [0033] and [0206]). Lencki fails to teach an HRA.

Kaehler teaches an HRA (paragraphs [0033] and [0052]).

The motivation to combine the teachings of Lencki and Kaehler are discussed in the rejection of claim 5, and incorporated herein.

Method claims 16 – 19 repeat the subject matter of system claims 5 - 8 as a series of steps rather than a set of apparatus elements. As the underlying elements of claims 5 – 8 have been shown to be fully disclosed by the teachings of Lencki and Kaehler in the above rejection of claims 5 - 8, it is readily apparent that the system disclosed by Lencki and Kaehler performs these steps. As such, these limitations (claims 16 – 19) are rejected for the same reasons given above for system claims 5 - 8, and incorporated herein.

Machine-readable medium claims 27 - 30 repeat the subject matter of system claims 5 - 8 as the execution of a series of steps rather than a set of apparatus elements. As the underlying elements of claims 5 - 8 have been shown to be fully disclosed by the teachings of Lencki and Kaehler in the above rejection of claims 5 - 8, it is readily apparent that the system disclosed by Lencki and Kaehler performs these steps. As such, these limitations (claims 27 - 30) are rejected for the same reasons given above for system claims 5 - 8, and incorporated herein.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- Spears (U.S. Publication Number 2002/0128879 A1) teaches a system and method for providing online management of medical savings accounts (MSA) and benefit selection. A consumer has a personal homepage which links them to an online market from which they can find information in regards to their medical financial accounts.
  - Freidman et al. (U.S. Publication Number 2004/0138999 A1) teaches a system and method for managing a credit account having a credit component associated with healthcare expenses.
  - Martin, Kathryn E. "Shifting Responsibilities: Models of Defined Contribution." Produced for the Robert Wood Johnson Foundation's *Changes in Health Care Financing and Organization* (HCFO) Program. Academy for Health Services Research and Health Policy, February 2002. Martin teaches the various types of employer based coverage options available to employers and employees.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/Robert Morgan/  
Primary Examiner, Art Unit 3626